

Response to June 9, 2006 Office Action  
Application No.: 10/735,477  
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Atty. Docket: S-16

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REMARKS

Applicant appreciates the time taken by the Examiner to carefully review Applicant's present application. At the time of the Office Action mailed June 9, 2006, Claims 1-5, 7, 8, 10, 11, 13-23, 25 and 26 were pending in this Application and were rejected. Claim 1 has been amended. Clear support for the amendment to Claim 1 is shown, for example, in paragraph [0071] of the application. Applicant respectfully requests reconsideration and favorable action in this case.

Rejections Under 35 U.S.C. §102:

Claims 1, 2, 4, 5, 10, 11, 13-18, 25 and 26 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 6,277,112 granted to Underwood et al. ("Underwood"). Applicant respectfully traverses.

As amended, Claim 1 recites a method for treating an intervertebral disc that includes, among other steps, "independently advancing at least one optic fiber into a nucleus of the disc through an access device". Emphasis added. In contrast, Underwood describes an electrosurgical system in which an endoscope is integrated into a device that also includes, for example, an electrosurgical instrument, an aspiration port and a fluid delivery port. See Fig. 17 and Col. 27, lines 20-42. As such, the integrated endoscopic device of Underwood cannot be independently advanced with respect to a disc as recited. Instead, as the endoscopic device of Underwood is advanced towards a disc, the entire distal end or "working end" of the system is advanced.

Because Underwood does not disclose, teach or suggest each and every recited limitation, it cannot anticipate Independent Claim 1. Accordingly, Applicant respectfully requests reconsideration, withdrawal of the rejection and full allowance of Claim 1 and Claims 2, 4, 5, 10, 11, 13-18, 25 and 26 which depend therefrom.

Rejections Under 35 U.S.C. §103:

Claim 3, 7, 8 and 21 were rejected under 35 U.S.C. § 103 as being unpatentable over Underwood. For analogous reasons to those recited above, Applicants respectfully submit that

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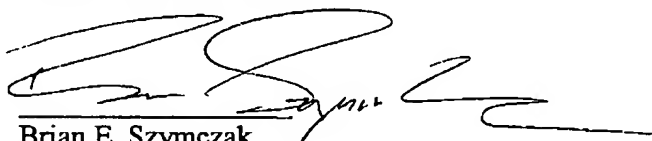
Underwood cannot render obvious Claims 3, 7, 8 and 21. Applicant requests reconsideration, withdrawal of the rejections under §103 and full allowance of Claims 3, 7, 8 and 21.

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**CONCLUSION**

Applicant has made a sincere effort to address all issues raised in the Office Action. If the Examiner believes a telephone conference would expedite prosecution of this application, a telephone call to the undersigned attorney at the number listed below will be appreciated.

Respectfully submitted,

  
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Date: 9/11/2006